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9 and Rainer "Ray" Navarro

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11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA - San Francisco Division**

13 MARQUS MARTINEZ and MICHAELA  
14 STAGGS, on behalf of themselves and other  
15 similarly situated individuals,

16 Plaintiffs,

17 v.

18 CITY OF SANTA ROSA and RAINER  
19 "RAY" NAVARRO,

20 Defendants.

Case No. C 20-04135 (VC)

**ANSWER TO FIRST AMENDED  
COMPLAINT**

[42 U.S.C. SECTION 1983 ]

**[DEMAND FOR JURY TRIAL]**

21 COMES NOW Defendants CITY OF SANTA ROSA, a chartered municipal corporation,  
22 and RAINER "RAY" NAVARRO, an individual, and answer the First Amended Complaint  
23 hereinafter, ("amended complaint"), assert affirmative defenses as follows and respectfully request  
24 a jury trial:

25 1. Answering Paragraph 1 of the First Amended Complaint, these answering defendants  
26 have no first hand information to admit or deny the circumstances surrounding the tragic death of  
27 George Floyd and lacking sufficient information and basing their denial on that ground deny the  
28 allegations set forth therein.

2. Answering Paragraph 2 of the First Amended Complaint, these answering defendants  
lack sufficient information and/or belief to respond to said allegations and basing their denial on that  
ground deny the allegations set forth therein.

3. Answering Paragraph 3 of the First Amended Complaint, these answering defendants admit that a protest occurred on May 30, 2020, that some protests occurred thereafter, that some citizens took to the streets, and some assembled peacefully in downtown Santa Rosa before assemblies were deemed unlawful because of destructive, violent and dangerous behavior. Defendants deny the balance of the allegations set forth therein.

4. Answering Paragraph 4 of the First Amended Complaint, these answering defendants deny the allegations set forth therein.

5. Answering Paragraph 5 of the First Amended Complaint, defendants admit that the Chief of Police stated that Santa Rosa Police officers do not aim for the head. Defendants deny the balance of the allegations set forth therein.

6. Answering Paragraph 6 of the First Amended Complaint, defendants admit that the Chief of Police and Lieutenant Jeanene Kucker made statements. Defendants deny the balance of the allegations set forth therein.

7. Answering Paragraph 7 of the First Amended Complaint, defendants deny the allegations set forth therein.

8. Answering Paragraph 8 of the First Amended Complaint, defendants lack sufficient information and/or belief to respond to said allegations and basing their denial on that ground deny the allegations set forth therein.

## THE PARTIES

9. Answering Paragraph 9 of the First Amended Complaint, these answering defendants lack sufficient information and/or belief to respond to said allegations and basing their denial on that ground deny the allegations set forth therein.

10. Answering Paragraph 10 of the First Amended Complaint, these answering defendants lack sufficient information and/or belief to respond to said allegations and basing their denial on that ground deny the allegations set forth therein.

11. Answering Paragraph 11 of the First Amended Complaint, these answering defendants lack sufficient information and/or belief to respond to said allegations and basing their denial on that ground deny the allegations set forth therein.

1           12.     Answering Paragraph 12 of the First Amended Complaint, these answering  
2 defendants lack sufficient information and/or belief to respond to said allegations and basing their  
3 denial on that ground deny the allegations set forth therein.

4           13.     Answering Paragraph 13 of the First Amended Complaint, these answering  
5 defendants lack sufficient information and/or belief to respond to said allegations and basing their  
6 denial on that ground deny the allegations set forth therein.

7           14.     Answering Paragraph 14 of the First Amended Complaint, without waving objections  
8 to the plaintiffs' standing, these answering defendants admit the allegations therein.

9           15.     Answering Paragraph 15, these answering defendants admit the City of Santa Rosa  
10 was responsible for supervising, enacting and enforcing SRPDS's conduct, policies, and practices,  
11 and for hiring, retention, supervision, and training of employees of SRPD. Defendants deny the  
12 balance of the allegations therein.

13           16.     Answering Paragraph 16 of the First Amended Complaint, these answering  
14 defendants admit the allegations therein.

15           17.     Answering Paragraph 17 of the First Amended Complaint, these answering  
16 defendants lack sufficient information and/or belief to respond to said allegations and basing their  
17 denial on that ground deny the allegations set forth therein.

18           18.     Answering Paragraph 18 of the First Amended Complaint, these answering  
19 defendants lack sufficient information and/or belief to respond to said allegations and basing their  
20 denial on that ground deny the allegations set forth therein.

21           19.     Answering Paragraph 19 of the First Amended Complaint, these answering  
22 defendants admit the allegations therein.

23                           **JURISDICTION AND VENUE**

24           20.     Answering Paragraph 20 of the First Amended Complaint, these answering  
25 defendants admit the allegations therein.

26           21.     Answering Paragraph 21 of the First Amended Complaint, these answering  
27 defendants admit the allegations therein.

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23. Answering Paragraph 23 of the First Amended Complaint, these answering defendants admit that the Santa Rosa Police Department is headed by the Chief of Police, that the City formerly employed a police auditor, and has yet to replace the former auditor. As to the balance of the allegations therein, these answering defendants deny them.

24. Answering Paragraph 24 of the First Amended Complaint, these answering defendants lack sufficient information and/or belief to respond to allegations regarding the plaintiffs' age, heritage, tribal affiliation, family, or past encounters with the Sonoma County Sheriff and on that basis deny them. Defendants admit that peaceful demonstrations in support of the Black Lives Matter movement took place in downtown Santa Rosa near Old Courthouse Square on Sunday, May 31, 2020 and that some peaceful protesters were young people in their teens and twenties; however, these answering defendants lack sufficient information or belief to admit to whether plaintiff Martinez attended the protests before they were deemed an unlawful assembly, and on that basis deny that Mr. Martinez attended a peaceful protest. These answering defendants deny the balance of the allegations set forth therein.

26. Answering Paragraph 26 of the First Amended Complaint, defendants admit that some of the crowd withdrew several blocks and congregated at intersections. Defendants further admit that Mr. Martinez approached the police, requested to take a knee to make a showing, and did take a knee so as to have his photograph taken. As to the balance of the allegations therein,

1 defendants deny them.

2 27. Answering Paragraph 27 of the First Amended Complaint, defendants lack sufficient  
3 information and belief so as to respond and on that basis deny the allegations therein.

4 **MICHAELA STAGGS**

5 28. Answering Paragraph 28 of the First Amended Complaint, defendants lack sufficient  
6 information and belief so as to respond and on that basis deny the allegations therein.

7 29. Answering Paragraph 29 of the First Amended Complaint, defendants lack sufficient  
8 information and belief so as to respond and on that basis deny the allegations therein.

9 30. Answering Paragraph 30 of the First Amended Complaint, defendants lack sufficient  
10 information and belief so as to respond and on that basis deny the allegations therein.

11 31. Answering Paragraph 31 of the First Amended Complaint, defendants lack sufficient  
12 information and belief so as to respond and on that basis deny the allegations therein.

13 **JACOB BECKMAN**

14 32. Answering Paragraph 32 of the First Amended Complaint, defendants lack sufficient  
15 information and belief so as to respond and on that basis deny the allegations therein.

16 33. Answering Paragraph 33 of the First Amended Complaint, defendants lack sufficient  
17 information and belief so as to respond and on that basis deny the allegations therein.

18 34. Answering Paragraph 34 of the First Amended Complaint, defendants lack sufficient  
19 information and belief so as to respond and on that basis deny the allegations therein.

20 35. Answering Paragraph 35 of the First Amended Complaint, defendants lack sufficient  
21 information and belief so as to respond and on that basis deny the allegations therein.

22 36. Answering Paragraph 36 of the First Amended Complaint, defendants lack sufficient  
23 information and belief so as to respond and on that basis deny the allegations therein.

24 37. Answering Paragraph 37 of the First Amended Complaint, defendants lack sufficient  
25 information and belief so as to respond and on that basis deny the allegations therein.

26 38. Answering Paragraph 38 of the First Amended Complaint, defendants lack sufficient  
27 information and belief so as to respond and on that basis deny the allegations therein.

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**DANI BURLISON**

39. Answering Paragraph 39 of the First Amended Complaint, defendants lack sufficient information and belief so as to respond and on that basis deny the allegations therein.

40. Answering Paragraph 40 of the First Amended Complaint, defendants lack sufficient information and belief so as to respond and on that basis deny the allegations therein.

41. Answering Paragraph 41 of the First Amended Complaint, defendant lack sufficient information and belief so as to respond and on that basis deny the allegations therein.

42. Answering Paragraph 42 of the First Amended Complaint, defendants lack sufficient information and belief so as to respond and on that basis deny the allegations therein

43. Answering Paragraph 43 of the First Amended Complaint, defendants lack sufficient information and belief so as to respond and on that basis deny the allegations therein.

44. Answering Paragraph 44 of the First Amended Complaint, defendants lack sufficient information and belief so as to respond and on that basis deny the allegations therein.

**KIMBERLY BARBOSA SOIERO**

45. Answering Paragraph 45 of the First Amended Complaint, defendants lack sufficient information and belief so as to respond and on that basis deny the allegations therein.

46. Answering Paragraph 46 of the First Amended Complaint, defendants lack sufficient information and belief so as to respond and on that basis deny the allegations therein.

47. Answering Paragraph 47 of the First Amended Complaint, defendants lack sufficient information and belief so as to respond and on that basis deny the allegations therein.

48. Answering Paragraph 48 of the First Amended Complaint, defendants lack sufficient information and belief so as to respond and on that basis deny the allegations therein.

49. Answering Paragraph 49 of the First Amended Complaint, defendants lack sufficient information and belief so as to respond and on that basis deny the allegations therein.

50. Answering Paragraph 50 of the First Amended Complaint, defendants lack sufficient information and belief so as to respond and on that basis deny the allegations therein.

51. Answering Paragraph 51 of the First Amended Complaint, defendants lack sufficient information and belief so as to respond and on that basis deny the allegations therein.

1           52.     Answering Paragraph 52 of the First Amended Complaint, defendants lack  
2 sufficient information and belief so as to respond and on that basis deny the allegations therein.

3           53.     Answering Paragraph 53 of the First Amended Complaint, defendants lack  
4 sufficient information and belief so as to respond and on that basis deny the allegations therein.

5           54.     Answering Paragraph 54 of the First Amended Complaint, defendants lack  
6 sufficient information and belief so as to respond and on that basis deny the allegations therein.

7           55.     Answering Paragraph 55 of the First Amended Complaint, defendants lack  
8 sufficient information and belief so as to respond and on that basis deny the allegations therein.

9           56.     Answering Paragraph 56 of the First Amended Complaint, defendants lack  
10 sufficient information and belief so as to respond and on that basis deny the allegations therein.

11          57.     Answering Paragraph 57 of the First Amended Complaint, lack sufficient  
12 information and belief so as to respond and on that basis deny the allegations therein.

13          58.     Answering Paragraph 58 of the First Amended Complaint, defendants deny the  
14 allegations therein.

15          59.     Answering Paragraph 59 of the First Amended Complaint, defendants deny the  
16 allegations therein.

17          60.     Answering Paragraph 60 of the First Amended Complaint, defendants deny the  
18 allegations therein.

19                                   **CLASS ALLEGATIONS**

20           The allegations regarding class having been deemed stricken at the Case Management  
21 Conference on November 10, 2020, defendants will not respond.

22                                   **MUNICIPAL ALLEGATIONS**

23          75.     Answering Paragraph 75 of the First Amended Complaint, defendants deny the  
24 allegations therein.

25          76.     Answering Paragraph 76 of the First Amended Complaint, defendants deny the  
26 allegations therein.

27          77.     Answering Paragraph 77 of the First Amended Complaint, defendants deny the  
28 allegations therein.

78. Answering Paragraph 78 of the First Amended Complaint, defendants deny the allegations therein.

79. Answering Paragraph 79 of the First Amended Complaint, defendants deny the allegations therein.

80. Answering Paragraph 80 of the First Amended Complaint, defendants admit there was no tracking system on usage of less lethal weapons. Defendants deny the balance of allegations therein.

81. Answering Paragraph 81 of the First Amended Complaint, defendants deny the allegations therein.

82. Answering Paragraph 82 of the First Amended Complaint, defendants deny the allegations therein.

## CAUSES OF ACTION

**COUNT I**

83. Answering Paragraph 83 of the First Amended Complaint, defendants incorporate by reference the answers to the previous paragraphs.

84. Answering Paragraph 84 of the First Amended Complaint, defendants deny the allegations therein.

85. Answering Paragraph 85 of the First Amended Complaint, defendants deny the allegations therein.

86. Answering Paragraph 86 of the First Amended Complaint, defendants deny the allegations therein.

87. Answering Paragraph 87 of the First Amended Complaint, defendants deny the allegations therein.

88. Answering Paragraph 88 of the First Amended Complaint, defendants deny the allegations therein.

89. Answering Paragraph 89 of the First Amended Complaint, defendants deny the allegations therein.

90. Answering Paragraph 90 of the First Amended Complaint, defendants deny the



1 allegations therein.

2 91. Answering Paragraph 91 of the First Amended Complaint, defendants deny the  
3 allegations therein.

4 92. Answering Paragraph 92 of the First Amended Complaint, defendants deny the  
5 allegations therein.

6 **COUNT II**

7 93. Answering Paragraph 93 of the First Amended Complaint, defendants incorporate  
8 by reference all of the answers to the preceding paragraphs.

9 94. Answering Paragraph 94 of the First Amended Complaint, defendants deny the  
10 allegations therein.

11 95. Answering Paragraph 95 of the First Amended Complaint, defendants deny the  
12 allegations therein.

13 96. Answering Paragraph 96 of the First Amended Complaint, defendants deny the  
14 allegations therein.

15 97. Answering Paragraph 97 of the First Amended Complaint, defendants deny the  
16 allegations therein.

17 **COUNT III**

18 The Court having dismissed Count III on November 5, 2020, defendants shall not  
19 respond.

20 **COUNT IV**

21 109. Answering Paragraph 109 of the First Amended Complaint, defendants  
22 incorporate by reference all of the answers to the previous paragraphs.

23 110. Answering Paragraph 110 of the First Amended Complaint, defendants deny the  
24 allegations therein.

25 111. Answering Paragraph 111 of the First Amended Complaint, defendants deny the  
26 allegations therein.

27 112. Answering Paragraph 112 of the First Amended Complaint, defendants deny the  
28 allegations therein.

1 113. Answering Paragraph 113 of the First Amended Complaint, defendants deny the  
2 allegations therein.

3 **AFFIRMATIVE DEFENSES**

4 1. Plaintiffs fail to allege facts sufficient to state a cause of action against these  
5 answering defendants.

6 2. Defendants are immune from liability to plaintiffs pursuant to the provisions of  
7 California Government Code §§ 815, 815.2, 815.6, 818, 818.2, 818.8, 820.2, 820.4, 820.6,  
8 820.8, and 822.2.

9 3. Plaintiffs were at fault and negligent in the matters set forth in the amended  
10 complaint and said fault and negligence contributed to, and were, the proximate cause of  
11 plaintiffs' injuries and damages, if any there were. Plaintiffs' recovery must, therefore, be  
12 diminished to the extent of said fault and negligence.

13 4. Plaintiffs assumed the risk of injury, if any there were herein, and plaintiffs, are,  
14 therefore, barred from recovery.

15 5. Defendants are entitled to qualified immunity and prosecutorial immunity.

16 6. Defendants will incur attorneys fees herein and are entitled to recover such fees.

17 7. Defendants acted within the scope of their discretion, in good faith, and pursuant  
18 to applicable rules, regulations, and practices, which were reasonably and in good faith believed  
19 to be in accordance with the Constitution and laws of the United States and California, and that  
20 defendants are, therefore, immune from liability.

21 8. The detention and/or arrest, if any there was, alleged in the amended complaint,  
22 was regular and lawful and made in good faith by law enforcement officers acting within the  
23 course and scope of their authority and with reasonable suspicion and/or probable cause to  
24 believe that a violation of law had occurred.

25 WHEREFORE, defendants, and each of them, pray for judgment as follows:

26 1. That plaintiffs take nothing by their amended complaint;

27 2. That attorney's fees and costs be awarded to defendants; and

28 3. For such further relief as the Court deems proper.

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**DEMAND FOR JURY TRIAL**

Defendants hereby demand a jury trial in this action.

DATED: November 17, 2020

*/s/ Robert L. Jackson*

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ROBERT L. JACKSON  
Assistant City Attorney  
Attorney for Defendants City of Santa Rosa  
and Rainer “Ray” Navarro